

### REMARKS

Applicant respectfully requests reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks.

Claims 1-75 are pending in the application, with claims 1, 22, 35, 40, 45 and 64 being independent claims. Claims 1, 13, 18, 22, 35, 40, 45, 59, and 64 are amended herein. Support for the claim amendments can be found in the original specification at least at the following pages: page 19, lines 9-12; and page 13, lines 8-25. No new matter has been added.

### §103 REJECTIONS

Claims 1-3, 6-24, 28-47, 51-66, and 69-75 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Application Pub. No. 2005/0097599 A1 to Plotnick et al. (hereinafter "Plotnick") in view of U.S. Patent Application Pub. No. 2005/0273828 to Barton (hereinafter "Barton"). Applicant respectfully traverses the rejection.

Nevertheless, without conceding the propriety of the rejection, and in the interest of expediting allowance of the application, independent claims 1, 22, 35, 40, 45, and 64 have been amended for clarification and are, therefore, believed to be allowable.

**Independent claim 1**, as presently amended, recites a media content playback system comprising:

- a graphics processor configured to process media content for display;
- a playback application configured to:
  - receive a media content navigation input; and
  - obtain an advertisement to be rendered when the media content navigation input is received, based on at least one of a **time of day**, a **type of the program**, and a **program channel** on which the program is broadcast, wherein the advertisement is **embedded** in **program guide data**.

Applicant respectfully submits that no such system is disclosed by Plotnick or Barton.

**Plotnick and Barton, either individually or in combination, Fail to Teach or Suggest Obtain[ing] an Advertisement ... Based on at least one of a Time of Day, a Type of the Program, and a Program Channel ... and Wherein the Advertisement is Embedded in Program Guide Data.**

Plotnick is directed to “[p]resenting viewers with an alternative brief version of a recorded advertisement when they choose to fast-forward through or skip (or any other trick play event) the recorded advertisement.” (Plotnick, Abstract). An alternate or entirely unrelated advertisement can also be displayed as the trick play advertisement. (Plotnick, para. 59). More specifically, Plotnick describes an ad targeting system which monitors and “analyze[s] viewer behavior (shows watched, channel surfing habits, commercial watching, etc.), [creating]

viewer profiles (demographic, psychographic, and behavioral attributes), [and] select[ing] and present[ing] advertisements based on user profiles derived from one of the following: a demographic database, volunteered information, profiles, or an autonomous agent.” (Plotnick, para. 131).

Barton is directed to “a method wherein the first or last number of seconds of a commercial break are carefully authored to provide a ‘teaser’ to entice the viewer to watch multiple commercials during the commercial break instead of skipping the commercial break using the fast forward or jump functions of [a] DVR. (Barton, Abstract). “A bookending function displays an advertisement before and/or after a program that has been recorded on the DVR’s storage device is played to the viewer.” (Barton, Abstract). Specifically, the method of Barton retrieves an advertisement, and displays it before a selected program that has been previously recorded is run. (Barton, Abstract).

The Office cites the combination of Plotnick and Barton as teaching the features of independent claim 1. Plotnick and Barton describe presenting an advertisement, an alternate advertisement, or a portion of an advertisement to a viewer of previously recorded programming. (Abstracts). Plotnick describes targeting advertisements to a viewing audience using profiles, where the profiles are created by analyzing *viewer behavior*. (Plotnick, para. 131). However in contrast, Plotnick and Barton, either taken alone or in combination, fail to teach or suggest “obtain an advertisement ... based on at least one of a **time of day**, a **type of the program**, and a **program channel** on which the program is broadcast,” as

recited by independent claim 1, or “wherein the advertisement is **embedded** in **program guide data**,” as also recited by independent claim 1. Accordingly, Plotnick and Barton, either taken alone or in combination, fail to teach or suggest the features of independent claim 1. Independent claim 1 is allowable for at least these reasons.

**Dependent claims 2-3, and 6-21** depend from independent claim 1 and are, therefore, allowable by virtue of this dependency as well as for additional features that each recites.

For example, the Office refers to the combination of Plotnick and Barton, (citing Plotnick, para. 149, lines 3-7), as teaching the features of dependent claim 13. Here, Plotnick teaches “[t]he STB differentiates individual viewing habits, characterizes the current viewer based on current and historical viewing information, and selects advertising appropriate for the current viewer based on the characterization.” (Plotnick, para. 149).

In contrast, Plotnick and Barton fail to teach or disclose “wherein the playback application is further configured to obtain the advertisement, and wherein an advertisement playlist is **integrated** with the **program guide data**” as recited in amended dependent claim 13.

Plotnick and Barton, taken alone or in combination, fail to disclose, teach, or suggest the features of dependent claims 2-3, and 6-21. Dependent claims 2-3, and 6-21 are allowable for at least these reasons.

**Independent claim 22** as presently amended, recites in part:

obtain an advertisement ... based on at least one of a **time of day**, a **type of the program**, and a **program channel** on which the program is broadcast, wherein the advertisement is **embedded in program guide data**.

Applicant respectfully submits that no such features are disclosed by Plotnick or Barton.

The Office cites the combination of Plotnick and Barton as teaching the features of independent claim 22. As discussed above, Plotnick and Barton describe presenting an advertisement, an alternate advertisement, or a portion of an advertisement to a viewer of previously recorded programming. (Abstracts). Plotnick describes using profiles to target advertisements to viewing audiences, where the profiles are created by analyzing **viewer behavior**. (Plotnick, para. 131). However in contrast, Plotnick and Barton, either taken alone or in combination, fail to teach or suggest “obtain an advertisement ... based on at least one of a **time of day**, a **type of the program**, and a **program channel** on which the program is broadcast,” as recited by independent claim 22, or “wherein the advertisement is **embedded in program guide data**,” as also recited by independent claim 22. Accordingly, Plotnick and Barton, either taken alone or in combination, fail to teach or suggest the features of independent claim 22. Independent claim 22 is allowable for at least these reasons.

**Dependent claims 23-24, and 28-34** depend from independent claim 22 and are, therefore, allowable by virtue of this dependency as well as for additional features that each recites.

**Independent claims 35 and 40** as presently amended, recite in part:

obtain the advertisement ... based on at least one of a **time of day**, a **type of the program**, and a **program channel** on which the program is broadcast, wherein the advertisement is **embedded in program guide data**.

Applicant respectfully submits that no such features are disclosed by Plotnick or Barton. For the reasons discussed above, Plotnick and Barton, either taken alone or in combination, fail to teach or suggest “obtain the advertisement ... based on at least one of a **time of day**, a **type of the program**, and a **program channel** on which the program is broadcast,” as recited by independent claims 35 and 40, or “wherein the advertisement is **embedded in program guide data**,” as also recited by independent claims 35 and 40. Accordingly, as Plotnick and Barton, either taken alone or in combination, fail to teach or suggest the features of independent claims 35 and 40, independent claims 35 and 40 are allowable for at least these reasons.

**Dependent claims 36-39** depend from independent claim 35, and **dependent claims 41-44** depend from independent claim 40. They are, therefore,

allowable by virtue of this dependency as well as for additional features that each recites.

**Independent claims 45 and 64** as presently amended, recite in part:

wherein the advertisement is based on at least one of a **time of day**, a **type of the program**, and a **program channel** on which the program is broadcast, and wherein the advertisement is **embedded in program guide data**.

Applicant respectfully submits that no such features are disclosed by Plotnick or Barton. For the reasons discussed above, Plotnick and Barton, either taken alone or in combination, fail to teach or suggest “wherein the advertisement is based on at least one of a **time of day**, a **type of the program**, and a **program channel** on which the program is broadcast,” as recited by independent claims 45 and 64, or “wherein the advertisement is **embedded in program guide data**,” as also recited by independent claims 45 and 64. Accordingly, as Plotnick and Barton, either taken alone or in combination, fail to teach or suggest the features of independent claims 45 and 64, independent claims 45 and 64 are allowable for at least these reasons.

**Dependent claims 46-47 and 51-63** depend from independent claim 45, and **dependent claims 65-66 and 69-75** depend from independent claim 64. They are, therefore, allowable by virtue of this dependency as well as for additional features that each recites.

**Claims 4-5, 25-27, 48-50, and 67-68 stand rejected under 35 U.S.C. § 103(a) as being obvious over Plotnick, in view of Barton, in further view of U.S. Patent No. 6,909,837 B1 to Unger (hereinafter "Unger").** Applicant respectfully traverses the rejection.

**Dependent claims 4-5** depend from independent claim 1, **dependent claims 25-27** depend from independent claim 22, **dependent claims 48-50** depend from independent claim 45, and **dependent claims 67-68** depend from independent claim 64. Therefore, each of these dependent claims includes all of the features of the respective independent base claims. Dependent claims 4-5, 25-27, 48-50, and 67-68 are allowable by virtue of their dependency as well as for additional features that each recite.

As discussed above, Plotnick and Barton fail to disclose, teach or suggest the features of independent claims 1, 22, 45, and 64. Further, Unger fails to remedy the deficiencies in Plotnick and Barton.

Unger is directed to a system of tagging frames of commercials that are recorded during the recording of video programming. (Unger, Abstract). When a user executes a fast forward (or other trick operation) during playback of the recording, the tagged frames are displayed as a static image or a condensed video clip. (Unger, Abstract). Generally, Unger describes presenting an advertising message to a user while the user skips the full-length commercials recorded during the program. (Unger, Abstract).



However, Unger fails to disclose, teach, or suggest obtaining an advertisement “based on at least one of a **time of day**, a **type of the program**, and a **program channel** on which the program is broadcast,” or “wherein the advertisement is **embedded in program guide data**,” as recited by independent claims 1, 22, 45, and 64. Therefore, Unger fails to remedy the deficiencies in Plotnick and Barton with regard to independent claims 1, 22, 45 and 64. Plotnick, Barton and Unger, taken alone or in combination fail to teach or suggest the features of independent claims 1, 22, 45 and 64. Thus, Plotnick, Barton and Unger, taken alone or in combination fail to teach or suggest the features of dependent claims 4-5, 25-27, 48-50, and 67-68 by virtue of their dependency on independent claims 1, 22, 45 and 64. Dependent claims 4-5, 25-27, 48-50, and 67-68 are allowable for at least these reasons, as well as for additional features that each recite.

For example, the Office admits that Plotnick and Barton do not teach the advertisement being an animated logo as recited in dependent claims 5, 26, 49, and 68. The Office states that “Unger teaches ... display the advertisement as an animated logo,” citing col. 5, lines 54-62, and col 6, lines 1-8 of Unger. (Office Action, section 4, pages 9-10). The cited text describes a static image, where “the static image is replaced when normal playback is resumed upon termination of the fast forward operation. Alternately, the static image may be terminated when a second tagged frame is detected that indicates the end of the commercial break in the recorded video programming.” (Unger, col. 5, lines 54-62). The additional

cited text describes “two or more static images ... [t]he length of time each static image is presented may be proportional to the normal running time of a full-length commercial corresponding to the static image which is being skipped by the fast forward operation. (Unger, col. 6, lines 1-8). Here Unger is describing the tendency for a commercial break during a video program to consist of multiple advertisements. Unger suggests that a first **static** image be displayed for a duration proportional to the full-length of the first advertisement, and a second **static** image be displayed for a duration proportional to the full-length of the second advertisement, and so forth for all of the advertisements comprising the commercial break. (Unger, col. 6, lines 1-8). However, like Plotnick and Barton, Unger fails to teach or suggest “the advertisement as an **animated logo**” as recited in dependent claims 5, 26, 49, and 68. Dependent claims 5, 26, 49, and 68 are therefore allowable for at least these reasons.

Thus, Plotnick, Barton and Unger, taken alone or in combination, fail to disclose, teach, or suggest at least the features of dependent claims 5, 26, 49, and 68. Dependent claims 5, 26, 49, and 68 are allowable for at least these reasons.

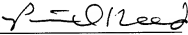
**CONCLUSION**

For at least the foregoing reasons, claims 1-75 are in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejections and an early notice of allowance.

If any issue remains unresolved that would prevent allowance of this case,  
**Applicant requests that the Examiner contact the undersigned attorney to resolve the issue.**

Respectfully submitted,

Date: January 7, 2008

By:   
Patrick D.S. Reed  
Lee & Hayes, pllc  
Reg. No. 61,227  
(509) 324-9256 ext. 252